

**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION
RENTON, WASHINGTON 98055-4056**

In the matter of the petition of

Pacific Island Aviation, Inc. (PIVA)

for an exemption from §§ 25.857(c) and
121.314(c) of Title 14, Code of Federal
Regulations

Regulatory Docket No. FAA-2001-8933

GRANT OF EXEMPTION

By letter of February 16, 2001, Mr. Robert Christian, President, Pacific Island Aviation, Inc. (PIVA), PMB 318, PO Box 10,000, Saipan, MP, 96950, petitioned for an exemption from certain requirements of § 121.314(c). Mr. Christian provided additional clarifying information on February 21, 2001, in a meeting with Transport Standards Staff personnel. The proposed exemption, if granted, would allow PIVA to operate, until June 20, 2001, three SD3-60 airplanes beyond the cargo compartment modification deadline of March 19, 2001.

The petitioner requests relief from the following regulations:

Section 121.314(c) requires that after March 19, 2001, each Class D compartment, regardless of volume, must meet the standards of §§ 25.857(c) and 25.858 for a Class C compartment unless the operation is an all-cargo operation in which case each Class D compartment may meet the standards in § 25.857(e) for a Class E compartment.

Section 25.857(c) requires that a Class C cargo or baggage compartment have (1) a separate approved smoke detector or fire detector system to give warning at the pilot or flight engineer station, (2) an approved built-in fire extinguishing or suppression system controllable from the cockpit, (3) means to exclude hazardous quantities of smoke, flames, or extinguishing agent, from any compartment occupied by the crew or

passengers, and (4) means to control ventilation and drafts within the compartment so that the extinguishing agent used can control any fire that may start within the compartment.

Section 25.858 requires (1) the detection system must provide a visual indication to the flightcrew within one minute after the start of a fire, (2) the system must be capable of detecting a fire at a temperature significantly below that at which the structural integrity of the airplane is substantially decreased, (3) there must be means to allow the crew to check in flight, the functioning of each fire detector circuit, and (4) the effectiveness of the detection system must be shown for all approved operating configurations and conditions.

The petitioner's supportive information is as follows:

“This request for exemption is submitted in accordance with the procedures detailed in 14 CFR Part 11.71, Amendment 11-46 (Effective September 20, 2000).

“(1) Contact Information:
Pacific Island Aviation, Inc. (PIVA)
Mr. Robert F. Christian, President
PMB 318, PO Box 10,000
Saipan, MP 96950

“Telephone: 1-670-287-3679
FAX: 1-670-234-3674
Email: piasaipan@saipan.com

“(2) This petition for exemption is submitted to allow PIVA to continue to operate its’ SD3-60 aircraft in scheduled passenger service beyond March 19, 2001, with cargo compartments that do not meet the requirements of 14 CFR Part 121.314(c). The exemption is requested only until such time that the aircraft manufacturer has completed the type investigation of the proposed design change, made an approved modification available to PIVA, and PIVA has been allotted sufficient time to install the modifications.”

[Note: Following the meeting on February 21, 2001, in a telecon on February 22, 2001, Mr. Christian modified his request for an exemption to operate until June 20, 2001, i.e., approximately 90 days beyond the cargo compartment modifications deadline of March 19, 2001].

“(4) An exemption would allow PIVA to continue to provide essential air services between the Islands of Guam, Rota, Tinian, and Saipan. A disruption in service would have a severely negative effect on the economy of the Commonwealth of the Northern Mariana Islands. Should PIVA not be allowed to operate its SD3-60 aircraft because of the requirements of 14 CFR part 121.314(c), PIVA would not be able to recover from the

financial losses associated with cessation of service and would necessarily be forced to give up its Air Carrier Certificate. Because PIVA is the only carrier with sufficient small equipment in the area, the Department [Department of Transportation] would be required to spend perhaps millions of dollars for service with jet equipment, as was the case when Air Micronesia was required to replace South Pacific Island Air in the early 1990's.

“(5) The intent of the rule change (Amendment 97-10) was to enhance the public's safety by effectively eliminating Class D cargo compartments on transport category aircraft and requiring them to be converted to meet the 14 CFR part 25.857 standards for Class C compartments and 14 CFR part 25.858 with regard to fire detection system capability.

“(Class D compartments required no fire detection capability nor was there a requirement to be able to introduce fire suppressant material into the compartment from inside the aircraft.)

“The conversion from Class D to Class C compartments requires the capability to introduce a fire-suppressing element into the cargo compartment through “...an approved built-in fire extinguishing or suppression system controllable from the cockpit” (14 CFR part 25.857(c)(2)).

“Additionally required is “an approved smoke detector or fire detector system to give warning at the pilot or flight engineer station” (14 CFR Part 25.857(c)(1)). This system must meet the requirements of 14 CFR Part 25.858. *[During the February 21, 2001, meeting, Mr. Christian confirmed that the detection system meets the one-minute detection requirement of § 25.858].*

“The SD3-60 is currently configured with both the means to introduce fire-extinguishant into the cargo compartments and an approved smoke detection system. The detection system displays the required warning in the cockpit and fire suppression system requires the manual introduction of fire extinguishant through a built-in distribution system. However, only the forward compartment system is directly operable from the cockpit. The aft cargo compartment has basically the same fire-suppression system but the design requires the Flight Attendant's participation in introducing the fire extinguishant.

“Therefore, whilst neither system has been certificated against Class C requirements, it is proposed that the existing installations offer an equivalent level of safety to that intended for a Class C compartment.

“PIVA has been aware of the requirement for some time. The manufacturer (Short Brothers, plc) told PIVA that they investigated the design changes needed to bring the cargo compartments on the SD3-60 aircraft into regulatory compliance with 14 CFR part 121.314(c). An independent company that had offered to do the testing and modification had previously approached PIVA offering to do the work and share the costs of engineering with other affected SD3-60 operators. Unfortunately, PIVA is reported to be the only operator of SD3-60 aircraft that is affected by the rule change making the costs,

if borne solely by PIVA, exorbitant. Additionally, with the manufacturer's commitment to do the required modification, PIVA opted to rely on the manufacturer for the conversion modification.

"PIVA was notified in late January 2001, that the manufacturer had developed a design change but was likely unable to have the necessary type investigation and subsequent regulatory authority approvals completed in time to meet the March 19, 2001, deadline as specified in 14 CFR part 121.314(c).

"It is our belief that there are no adverse safety, economic, or environmental consequences associated with the grant of this petition. There are, however, considerable economic and social consequences if PIVA is not able to continue its operation between the Northern Mariana Islands and Guam.

"I apologize for the late submission of this petition and acknowledge the difficulty of processing the petition in time for relief. I respectfully hope that there is some consideration given to the remoteness of the area in which we operate and our difficulty in keeping sufficient communication with the manufacturer in Belfast."

A summary of the petition was published in the Federal Register on March 2, 2001 (66 FR 13121). No comments were received.

The Federal Aviation Administration's analysis/summary is as follows:

NATURE & EXTENT OF RELIEF SOUGHT

The petitioner's request is to receive a temporary exemption until June 20, 2001, from the requirements of §§ 121.314(c) vis-à-vis compliance with § 25.857(c)(2) requiring installation of an approved built-in fire extinguishing or suppression system controllable from the cockpit on its fleet of three Model SD3-60 airplanes.

The petitioner's proposal is to continue to operate its three Model SD3-60 airplanes that are currently configured with both the means to introduce fire-extinguishant into the cargo compartments and an approved smoke detection system. The detection system displays the required warning in the cockpit, and the fire suppression system requires the manual introduction of fire extinguishant through a built-in distribution system. However, only the forward compartment system is directly operable from the cockpit. The aft cargo compartment has basically the same fire-suppression system but the design requires the flight attendant's participation in introducing the fire extinguishant.

The petitioner intends to meet all applicable regulations for a Class C cargo compartment i.e., §§ 25.857(c) and 25.858, by using the existing installations in the airplane as well as by modifying both the forward and aft Class D cargo compartments to Class C cargo compartments, as required by § 121.314(c), as soon as the airplane manufacturer makes the modification kits available, but no later than June 20, 2001. Continued operation

during the interim with the current fire detection and suppression systems does not adversely affect safety.

The FAA contacted Shorts Brothers and has determined that the aircraft manufacturer has undertaken the development of a cargo compartment retrofit kit and will support a 90-day extension of the compliance time. The FAA considers a 90-day extension for compliance is warranted in this case.

DESCRIPTION OF EACH AIRCRAFT TO BE COVERED

The three airplanes to be covered are Short Brothers plc Model SD3-60, Registration Numbers N711HJ, N711MP, and N711PK. *This information was provided during the February 21, 2001, meeting.*

INFORMATION IN SUPPORT OF THE PETITION

The FAA concurs with the unique intrastate commerce role of the petitioner's three Model SD3-60 airplanes in providing scheduled passenger service between the Islands of Guam, Rota, Tinian, and Saipan. The FAA concurs that the submittal of a petition for an exemption is an appropriate avenue to address the petitioner's concerns supporting a temporary exclusion of its three SD3-60 airplanes from compliance with § 121.314(c). The FAA notes that the airplanes, although not certificated to comply with Class C requirements, already meet the smoke detection and indication requirements and have a manually operated fire suppression system. The FAA concurs that by implementing the proposed design changes, upon receiving modification kits from Short Brothers, PIVA will meet all applicable regulations.

COMMENTS IN THE PUBLIC INTEREST

Essential Air Services (EAS)

The Department of Transportation (DOT) guarantees Essential Air Service (EAS) to over 700 communities in the U.S., including Rota and Tinian in the Northern Mariana Islands in the Western Pacific. This program was established by Section 419 of the Airline Deregulation Act of 1978 (since changed to 49 U.S.C. 41731 et. seq., and 14 CFR parts 271, 272, 323, and 325). The DOT is relying on Pacific Island Aviation (PIVA) to provide EAS to the Northern Mariana Islands since it is one of only two small air carriers currently providing scheduled air service in these markets. The aircraft needed to provide island service is somewhat unique due to the short runways on several of the islands. Were PIVA to cease operations for any reason, the Department may be obligated to secure replacement service, and if no carrier were willing to initiate subsidy-free service, the FAA would expend government funds to secure replacement service.

It is our understanding that at this time there are no fit and reliable carriers, other than PIVA, with the requisite operating authority and appropriate-size airplanes operating in the Northern Mariana Islands. It is unlikely that a carrier could quickly be found able to

provide the required service other than a large jet operator, and that service might prove extremely expensive. Beyond any cost to the Federal government, any disruptions in air service to Rota and Tinian would likely affect the local economies.

The FAA is extremely reluctant to provide compliance time extensions to petitioners. When we issued this regulation, the FAA acknowledged that the three-year compliance period would be aggressive and would require careful planning. However, at that time none of the commenters provided credible reasons suggesting that detection and suppression systems could not be installed in all affected airplanes within three years while the airplanes are undergoing other scheduled maintenance. Based on information received by the commenters, the FAA concluded that a three-year compliance schedule was the optimal compromise between cost and safety considerations and that the benefits of the rule justify the costs. The FAA has carefully weighed the merits of the petitioner's arguments including the unique circumstances of the petitioner's operations; airplanes that have an existing cargo compartment fire suppression system and the essential air service that is provided. Lastly, in a letter dated March 8, 2001, Mr. Christian states "*In the event our petition is approved and the compliance date is set 90 days from the current requirement, we will not be requesting a further extension and we understand that a further extension will not be permitted.*"

The petitioner has demonstrated unique circumstances that make granting the proposed exemption in the public interest.

In consideration of the foregoing, I find that a grant of exemption would be in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator, PIVA is hereby granted an exemption from 14 CFR § 121.314(c) to the extent necessary to allow its three Model SD3-60 airplanes to operate until June 20, 2001.

Issued in Renton, Washington, on March 15, 2001.

/s/ Vi L. Lipski
Vi L. Lipski
Manager
Transport Airplane Directorate
Aircraft Certification Service, ANM-100